

David O'Shell, pro per  
NAME  
CO-000761-7  
PRISON NUMBER  
Coalinga State Hospital  
PLACE OF CONFINEMENT  
P.O. Box 5003; Coalinga, CA 93210  
ADDRESS

FILED  
2008 MAR -7 PM 4:37  
CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY *RMC* DEPUTY

United States District Court  
Southern District of California

David O'Shell  
(FULL NAME OF PETITIONER)  
Petitioner  
v.  
People of the  
State of California  
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED  
PERSON HAVING CUSTODY OF PETITIONER, E.G. PAROLE OFFICER)  
Respondent  
and  
The Attorney General of the State of  
California, Additional Respondent.

Civil No. **08 CV 0436 J NLS**  
(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

**PETITION FOR WRIT OF HABEAS CORPUS**

UNDER 28 U.S.C. § 2241

1. Type of challenge (CHECK ONE):

- Parole
- Probation
- Loss of good-time credits
- Prison disciplinary hearing
- Other (specify): Due process / time constraint and constitutional violation, prejudiced loss of liberty.

2. Have you previously filed any petitions, applications, or motions with respect to the execution of your sentence in any court, state or federal?

Yes  No

3. If your answer to 2 was "Yes," give the following information:

(a) (1) Name of court Supreme Court of the State of California

(2) Nature of proceeding Petition for Writ of Habeas Corpus

(3) Grounds raised Time constraint, due process and constitutional violation for arraignment and probable cause and prejudicial loss of liberty because of the violation.

(4) Did you receive an evidentiary hearing on your petition, application or motion?  
 Yes  No

(5) Result Denied

(6) Date of result November 14, 2007

(b) As to any second petition, application or motion give the same information:

(1) Name of court San Diego Superior Court of California

(2) Nature of proceeding Petition for Writ of Mandate under California Penal Code Section 871.6 and 859b.

(3) Grounds raised Petitioner's preliminary hearing was continued without probable cause and without Petitioner's knowledge or consent to exceed the statutory period prescribed in Section 859b of the Penal Code

\_\_\_\_\_  
\_\_\_\_\_  
  
(4) Did you receive an evidentiary hearing on your petition, application or motion?  
□ Yes  No

(5) Result No result

(6) Date of result N/A

(c) Did you appeal, to the highest state court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc.  Yes □ No  
(2) Second petition, etc. □ Yes  No

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not: San Diego Superior Court has not made a ruling from August 27, 2007 when Writ of Mandate was submitted.  
\_\_\_\_\_  
\_\_\_\_\_

4. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. Moreover, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

You should *raise in this petition all available grounds* on which you base your allegations that you are being held in custody unlawfully.

A. Ground one: Petitioner's due process and constitutional rights were violated where time constraints expired for Petitioner's arraignment.

**Supporting FACTS** (state *briefly* without citing cases or law) On November 16, 2006 a Petition for Involuntary Treatment was filed against Petitioner. (See Exhibit "A".) Petitioner was brought to the San Diego County Jail and made his first court appearance on December 1, 2006. Fifteen (15) days after Petition for Involuntary Treatment was signed.

**B. Ground two:** Petitioner's due process and constitutional rights were violated at arraignment while Petitioner did not waive time.

**Supporting FACTS** (state *briefly* without citing cases or law): On December 1, 2006 arraignment was held and Deputy Public Defender, Jane Kinsey set a Status Conference for January 12, 2007. During the arraignment Petitioner was never asked to waive time by his attorney, nor did the Court seek to ask Petitioner. At no time did Petitioner give consent or have prior knowledge to have statutory time waived or did the Petitioner knowingly

or willingly personally waive time during arraignment of before the Probable Cause Hearing. (See Exhibits "B" and "C".)

C. **Ground three:** Petitioner's due process and constitutional rights were violated where time constraints expired for Probable Cause Hearing.

**Supporting FACTS** (state *briefly* without citing cases or law): Petitioner was arraigned on December 1, 2006 and a Status Conference was scheduled for January 12, 2007. At that time a Probable Cause Hearing was set for April 25, 2007.  
At no time had Petitioner waived statutory time prior to the Probable Cause Hearing which was held on April 24, 2007. (129 days after Petition for Involuntary Treatment was signed. (See Exhibits "B" and "C".)

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5. If any of the grounds listed in 4A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not presented, and give your reasons for not presenting them:

N/A

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6. Do you have any petition or appeal now pending in any court, either state or federal, as to the execution of sentence under attack?

Yes  No

7. Give the name and address, if known, of each attorney who represented you in the following stages of the execution of sentence attacked herein:

(a) In any post-conviction proceeding N/A

(b) On appeal from any adverse ruling in a post-conviction proceeding \_\_\_\_\_

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Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

N/A

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

March 4, 2008

(DATE)

David O'Shell, pro per

SIGNATURE OF PETITIONER

David O'Shell

**PROOF OF SERVICE BY MAIL**

**BY PERSON IN STATE CUSTODY**

(Fed. R. Civ. P. 5; 28 U.S.C. §1746)

I, David O'Shell, declare that:

I am over eighteen years of age and a party to this action. I am a resident of Coalinga State Hospital in the city of Coalinga in the county of Fresno, California. The address of my incarceration is: P.O. Box 5003, Coalinga, California 93210.

On March 4, 2008, I serviced the attached Petition for Writ of Habeas Corpus and Motion to Proceed In Forma Pauperis on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope, with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above named state hospital in which I am presently confined. The envelope was addressed as follows:

Clerk of the U.S. District Court  
Room 4290  
880 Front Street  
San Diego, California 92101-8900

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dr. Osher

Executed on March 4, 2008 David O'Shell,  
Petitioner / Defendant

**E X H I B I T "A"**

**E X H I B I T "A"**

**E X H I B I T "A"**

1 BONNIE M. DUMANIS  
2 District Attorney  
3 SUMMER STEPHAN, SBN 129323  
4 Deputy District Attorney  
5 Hall of Justice  
6 330 West Broadway, Suite 1240  
7 San Diego, California 92101  
8 (619) 531-4197  
9 Fax (619) 685-6540  
10 Email summer.stephan@sdcda.org  
11  
12 Attorneys for Petitioner  
13  
14

**F I L E D**  
Clerk of the Superior Court

NOV 16 2006

By: X. LUGO, Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9  
10 FOR THE COUNTY OF SAN DIEGO  
11  
12 CENTRAL DIVISION

13 THE PEOPLE OF THE STATE OF CALIFORNIA,

14 Petitioner,

15 DAVID O'SHELL,  
16 (CDC# K13377)

17 Respondent.

Nos. MH 100473  
DA A63435/P67301

**PETITION FOR INVOLUNTARY  
TREATMENT OF A SEXUALLY  
VIOLENT PREDATOR**

(Welf. & Inst. Code, § 6600 et seq.)  
Date: December 1, 2006  
Time: 9:00 a.m.  
Dept: 11

18 I

19 Pursuant to Welfare and Institutions Code section 6600 et seq., the District  
20 Attorney of the County of San Diego hereby petitions this Honorable Court to commence  
21 proceedings to determine whether DAVID O'SHELL is a sexually violent predator and  
22 should be committed for an indeterminate term to the custody of the California Department of  
23 Mental Health for appropriate treatment and confinement in a secure facility designated by the  
24 Director of Mental Health. Respondent is a sexually violent predator in that Respondent was  
25 convicted of a sexually violent offense against two or more victims, and has a diagnosed  
26 mental disorder that makes him a danger to the health and safety of others in that it is likely he  
27 will engage in sexually violent predatory criminal behavior.

28 . . . . .

III

On October 22, 1982, in the Municipal Court of California, County of San Diego, San Diego Judicial District, SF-76399 (Superior Court case number CRS-60538), DAVID O'SHELL pled guilty to the crime of Oral Copulation with a Person Under the Age of 18, in violation of Penal Code section 288a(c), a felony. It is also alleged that in the commission of the above offense, the respondent DAVID O'SHELL used a deadly weapon, to wit: a knife, within the meaning of Penal Code section 12022.3(a). The victim was a young man Ben S. – age 16.

III

On November 17, 1982, the Honorable Cazares, Judge of the Municipal Court, sitting as Superior Court Judge, sentenced respondent to 11 years in state prison.

IV

On May 23, 1996, in the Municipal Court of California, County of San Diego, San Diego Judicial District, in case CD-115690 (Superior Court number SCD-115690), DAVID O'SHELL pled guilty to the crime Lewd Act Upon a Child in violation of Penal Code section 288.5(a), a felony. It is also alleged that respondent has not remained free of prison custody and free of the commission of an offense resulting in a felony conviction for ten years subsequent to his conviction for the above said felony, within the meaning of Penal Code section 667.6(a). The victim was a young male Joseph P. age - 13.

V

On July 11, 1996, the Honorable Kenneth K. So, Judge of the Superior Court sentenced DAVID O'SHELL to 21 years state prison.

VI

Petitioner herein alleges that DAVID O'SHELL is a person who has been convicted of a sexually violent offense against two or more victims for which he was . . . . .

1 sentenced to state prison and who has a diagnosed mental disorder that makes him a danger to  
2 the health and safety of others, in that it is likely he will engage in sexually violent predatory  
3 criminal behavior. (See Declaration of Summer Stephan attached hereto.)

4 **VII**

5 Respondent is presently confined at California State Prison-Solano.

6 **WHEREFORE**, your petitioner prays that:

7 1. Proceedings be held in the manner provided by law pursuant to the provisions  
8 of Welfare and Institutions Code section 6600 et seq.

9 2. At the conclusion of the proceedings, the court commit respondent DAVID  
10 O'SHELL to the Department of Mental Health for an indeterminate term pursuant to  
11 Welfare and Institutions Code section 6604.

12 3. The court issue an order to the Sheriff of the County of San Diego and to the  
13 Warden, California State Prison-Solano, directing the Sheriff to bring respondent before this  
14 court for arraignment on this petition and for such further proceedings that are called for by  
15 Welfare and Institutions Code section 6600 et seq.

16 4. The court also issue an order finding probable cause through facial review and  
17 holding respondent in a secure facility (i.e., California State Prison-Solano/county jail) pursuant  
18 to Welfare and Institutions Code section 6601.5 pending further proceedings.

19 Dated: November 13, 2006

20 Respectfully submitted,

21 BONNIE M. DUMANIS

22 District Attorney

23 By: *Summer Stephan*

24 SUMMER STEPHAN

25 Deputy District Attorney

26 Attorneys for Petitioner

**E X H I B I T "B"**

**E X H I B I T "B"**

**E X H I B I T "B"**

1 IN THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
2  
3 DEPARTMENT 11 BEFORE HON. JEFFREY FRASER, JUDGE  
4  
5 CENTRAL DIVISION

THE PEOPLE OF THE STATE OF  
CALIFORNIA

PLAINTIFF,

VS.

DAVID OSHELL,

DEFENDANT.

COPY

13 REPORTER'S TRANSCRIPT  
14 SAN DIEGO, CALIFORNIA  
15 DECEMBER 1, 2006

17 APPEARANCES:

18 FOR THE PEOPLE: BONNIE M. DUMANIS, ESQ.  
19 DISTRICT ATTORNEY  
BY: PHYLISS SHESS  
DEPUTY DISTRICT ATTORNEY

21 FOR THE DEFENDANT: JANE KINSEY  
DEPUTY PUBLIC DEFENDER

26 LORI LAROCQUE RMR, RPR, CSR NO. 10984  
27 OFFICIAL REPORTER  
28 SAN DIEGO SUPERIOR COURT

1 SAN DIEGO, CALIFORNIA, FRIDAY, DECEMBER 1, 2006, A.M. CALENDAR

PROCEEDINGS

THE COURT: NO. 18, OSHELL.

MS. SHESS: PHYLIS SHESS FOR THE PEOPLE.

7 MS. KINSEY: JANE KINSEY FOR DALEN DUONG OF MY OFFICE,  
8 WHO IS CURRENTLY IN TRIAL. MR. OSHELL IS HERE FOR  
9 ARRAIGNMENT. I HAVE DISCUSSED WITH COUNSEL PERHAPS WE COULD  
10 SET A STATUS CONFERENCE IN JANUARY AND AT THIS POINT SET A  
11 PROBABLE CAUSE IN APRIL.

12 MS. SHESS: WELL, I THINK THAT'S TOO FAR OFF AT THIS  
13 POINT FOR THE PROBABLE CAUSE HEARING, YOUR HONOR. THAT DOESN'T  
14 GET US TO A TRIAL DATE FOR A LONG PERIOD OF TIME.

15 SO WHAT I SUGGESTED IS -- I DON'T EVEN KNOW  
16 WHETHER MR. DUONG HAS EVEN HAD A CHANCE TO MEET WITH HIS CLIENT  
17 YET. BUT JANUARY 12TH -- IF WE COULD BASICALLY CONTINUE THE  
18 ARRAIGNMENT OR WE COULD DO THE ARRAIGNMENT THIS MORNING AND SET  
19 JANUARY 12TH FOR A STATUS. AT THAT POINT, THEN, MR. DUONG WILL  
20 BE BACK WITH HIS CALENDAR AND PERHAPS WE CAN WORK TOGETHER TO  
21 MOVE THE DATE UP A LITTLE BIT.

22 THE COURT: THIS WILL BE THE ARRAIGNMENT NOW. WE'LL SET  
23 IT FOR STATUS ON TRIAL AND GET FORMAL DATES.

24 MS. KINSEY: THAT'S FINE.

25 THE COURT: SO GO AHEAD, COUNSEL, AND ARRAIGN HIM.

26 MS. KINSEY: YOUR HONOR, MR. OSHELL IS ON A W.I. 6600  
27 PETITION. HE DENIES THE PETITION AT THIS TIME AND REQUESTS  
28 PROBABLE CAUSE FOR A JURY TRIAL.

1 THE COURT: AT THIS POINT, THEN, WAIVE ANY TIME TO HAVE  
2 A PROBABLE CAUSE HEARING WITHIN A REASONABLE TIME SO I CAN SET  
3 IT FOR A STATUS IN JANUARY?

4 MS. KINSEY: YES.

5 THE COURT: NOTE THE TIME WAIVER. PUT THE MATTER OVER  
6 UNTIL JANUARY.

7 THE CLERK: COUNSEL, WHAT DATE?

8 MS. KINSEY: JANUARY 12TH.

9 THE CLERK: STATUS SET FOR JANUARY 12TH AT 9:00 O'CLOCK  
10 IN DEPARTMENT 11.

11 MS. KINSEY: THANK YOU.

12 - - -

13 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED)

14 - - -

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1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN DIEGO )  
3  
4  
5

6 I, LORI LAROCQUE, DO HEREBY CERTIFY:  
7

8 THAT I AM A CERTIFIED SHORTHAND REPORTER OF THE  
9 STATE OF CALIFORNIA, CERTIFICATE NO. 10984, AND AN OFFICIAL  
10 COURT REPORTER OF THE SUPERIOR COURT, CENTRAL DIVISION, IN AND  
11 FOR THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA;

12  
13 THAT AS SUCH OFFICIAL COURT REPORTER, I REPORTED  
14 IN SHORTHAND THE ORAL PROCEEDINGS IN THE WITHIN CAUSE ON THE  
15 DATE INDICATED HEREINBEFORE; AND

16  
17 THAT THE FOREGOING AND ATTACHED "REPORTER'S  
18 TRANSCRIPT," IS A FULL, TRUE AND CORRECT TRANSCRIPT OF THE ORAL  
19 PROCEEDINGS HAD ON SAID DATE.

20  
21 DATED THIS 17TH DAY OF APRIL, 2007, AT SAN DIEGO,  
22 CALIFORNIA.

23  
24  
25  
26  
27  
28

*Lori Larocque*

\_\_\_\_\_  
LORI LAROCQUE, RMR, RPR, CSR  
OFFICIAL REPORTER, CSR NO. 10984  
SAN DIEGO SUPERIOR COURT

**E X H I B I T "C"**

**E X H I B I T "C"**

**E X H I B I T "C"**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

I, David O'Shell, declare as follows:

I am the Petitioner and Defendant in the above entitled case.

I declare under penalty of perjury that the facts stated in the enclosed document not otherwise supported by citations to the record, exhibits, or other documents, are true and correct of my own knowledge. I further declare as to any facts alleged on information and belief, that I believe them to be true and correct under penalty of perjury.

The facts of the case are as follows:

On November 16, 2006, the District Attorney filed the Petition for Involuntary Treatment pursuant to Welfare and Institutions Code (W.I.C.) Section 6600 et. seq. On this day also was an order to keep Mr. O'Shell in a secure facility pending a hearing pursuant to W.I.C. Section 6602. Mr. O'Shell was transported and delivered to San Diego County Jail on November 29, 2006. Mr. O'Shell appeared before the Honorable Jeffrey F. Fraser in Department 11, Superior Court of San Diego, and a "Status Conference" was set for January

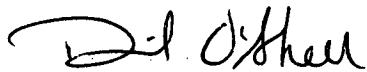
1 12, 2007. On January 12, 2007, Mr. O'Shell again appeared  
2 before the Honorable Jeffrey F. Fraser and a Probable Cause  
3 hearing was set for April 25, 2007. This date was later  
4 changed to April 24, 2007, due to scheduling conflicts with  
5 witnesses.

6 At no time did Mr. O'Shell personally waive statutory  
7 time in extending the Probable Cause Hearing beyond the 10-day  
8 requirement pursuant to W.I.C. Section 6601.5. At no time did  
9 Mr. O'Shell submit or authorize Counsel to submit a motion to  
10 extend the Probable Cause Hearing beyond the 10-day  
11 requirement pursuant to W.I.C. Section 6601.5. At no time did  
12 Mr. O'Shell authorize court appointed Counsel to waive  
13 statutory time. At no time was Mr. O'Shell asked by the Court  
14 to verbally waive statutory time or to sign a waiver to waive  
15 statutory time.

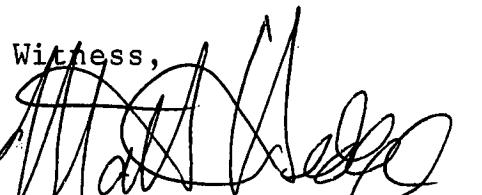
16 I declare under penalty of perjury under the laws of the  
17 State of California, that the foregoing is true and correct.

18 Dated this 15th day of February in the year of 2008, in  
19 the city of Coalinga of Fresno County and State of California.

20  
21 Declarant,

22 

23 David O'Shell,  
24 Petitioner / Defendant

25  
26 Witness,  
27   
28 Matthew H. Hedge,  
Witness of Signature

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED

2008 MAR -7 PM 4:37  
People of the State of CA

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

## DEFENDANTS

## I (a) PLAINTIFFS

David O'Shell

(b) COUNTY OF RESIDENCE OF FIRST LISTED Fresno  
PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

BY  DEPUTY

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

## (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

## ATTORNEYS (IF KNOWN)

David O'Shell  
PO Box 5003  
Coalinga, CA 93210  
CO-000761-7

'08 CV 0436 J NLS

## II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

U.S. Government Plaintiff  3 Federal Question  
(U.S. Government Not a Party)

U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in  
Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX  
FOR DIVERSITY CASES ONLY)

	PT	DEF	PT	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 USC 2241

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury- Medical Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 861 HIA (13958)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 862 Black Lung (923)	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 555 Prisoner Conditions		<input type="checkbox"/> 890 Other Statutory Actions

## VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

1 Original Proceeding  2 Removal from State Court  3 Remanded from Appelate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND:  YES  NO

## VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE March 7, 2008

SIGNATURE OF ATTORNEY OF RECORD

148553 \$5.00 SA 3/7/08 Rmuller

UNITED STATES  
DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

# 148553 - SH

March 07, 2008  
16:33:05

**Habeas Corpus**

USAO #: 08CV0436  
Judge.: NAPOLEON A JONES, JR  
Amount.:  
Check#: 0548427622 \$5.00 MO

**Total-> \$5.00**

FROM: O'SHELL V. PEOPLE OF CA